

In re) Fair Hearing No. 16,858
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Appeal of)

The petitioner appeals a decision by the Department of PATH terminating her ANFC benefits effective November 2000. The petitioner does not dispute that she was ineligible for ANFC as of that date for other reasons, but she does not want to be found liable for an overpayment for any previous months based on the Department's calculations of her net income from self-employment.

1. The petitioner was receiving ANFC benefits for herself and her minor child. The petitioner owns a restaurant that, until recently, was struggling financially.

2. The petitioner first went on ANFC in early 1998. At that time the Department determined her monthly income based on her previous year income tax filing.

3. It appears that the petitioner reported a net loss of about \$23,000 for her business in 1998, and that the Department used that figure in determining the petitioner's eligibility for ANFC for 1999.

4. The petitioner did file her tax statement for 1999 until August 2000. The Department reviewed her eligibility for ANFC in November 2000 based on her 1999 tax filing.

5. The issue in this case concerns the petitioner's claimed "carry over" of most of the business loss of \$23,000 that was incurred in 1998. In determining the petitioner's eligibility for ANFC as of November 2000 the Department did not allow the petitioner to deduct as an ongoing business expense in 2000 the losses she incurred in 1998. The petitioner maintains that she must still make monthly payments on these debts, and that they should be considered an ongoing business expense.

6. At the hearing in this matter held on January 18, 2001, the petitioner admitted that her 1999 tax filing did not reflect a recent upturn in her business, and that even with the lingering debt from 1998 she was ineligible for ANFC as of November, 2000. She is concerned, however, that the Department has found her liable for an overpayment of ANFC prior to November 2000 based on its refusal to recognize the carryover 1998 debt as an ongoing deductible business expense.

ORDER

The petitioner's appeal of the Department's November 2000 decision terminating her ANFC is moot. The matter is remanded to the hearing officer for further consideration of the

Department's decision that the petitioner was overpaid benefits prior to November 2000.

REASONS

As noted above, the petitioner does not dispute that she is ineligible for ANFC as of November 2000 based on an increase in her business earnings that were not reflected in the tax statement the Department used to make its decision. Therefore, it is unnecessary for the Board at this time to review whether the Department's reasons for terminating the petitioner's ANFC accurately reflected her earnings and losses from self-employment as of November 2000.

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